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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------|------------------|
| 10/687,160 | 10/16/2003 | J. Bryce Smith | 49075.0003 | 6635 |
| 7590 04/13/2005 | | | | |
| L. Grant Foster HOLLAND & HART LLP P.O. Box 8749 Denver, CO 80201 | | | EXAMINER WEAVER, SUE A | |
| | | | ART UNIT 3727 | PAPER NUMBER |

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/687,160 | SMITH, J. BRYCE | |
| | Examiner | Art Unit | |
| | Sue A. Weaver | 3727 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 13-22 and 25-36 is/are rejected.
- 7) ☒ Claim(s) 9-12, 23 and 24 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/1/03</u> <i>SP</i> | 6) <input type="checkbox"/> Other: ____ |

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the an internal pocket housed within the organizing flap, as claimed in claim 5, a gap disposed below the central pocket; as claimed in claim 26, and the step of inserting an additional chart in another of the interior pockets, as claimed in claim 36 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

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Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

2. The disclosure is objected to because of the following informalities: Applicant appears to have used "128" to describe both an inner surface and a base.

Appropriate correction is required.

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3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. .

On page 9 applicant describes the organizer flap 122 as having an additional internal third pocket 150 for housing a GPS or radio. However the drawings show 150 as being in the recess, not on the organizer flap 122. That description and claim 5 produces the question as to just what defines the organizer flap 122. Is the recessed wall also part of the organizer flap?

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2,16, 29 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the plurality of organizing flaps" in the last line.

There is insufficient antecedent basis for this limitation in the claim.

Is applicant referring to the one or more organizer pockets?

Claim 16 recites the limitation "the plurality of organizer pockets" in line 1. There is insufficient antecedent basis for this limitation in the claim.

One pocket does not produce a plurality. Moreover the hinging arrangements claimed are alternative.

Claim 29 recites the limitation ""the stiff center plate" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 30 recites the limitation "the first and second pockets" in line 1. There is insufficient antecedent basis for this limitation in the claim.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 13-20, 25,27 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chisholm, cited by applicant in view of Dauphin et al.

Chisholm teaches a bag with a center pocket and an outer organizing flap and in one embodiment ads a ring binder adjacent the flap at the hinge. Dauphin et al however teach a case which has organizer pockets hinged away from the hinged sections adjacent the closure such that the pockets may be opened out away form the case sections but stored within with the case closed. To have placed the ring binder of Chisholm at the periphery of the flap so that organizer pockets may be opened outward away from the flap would have been obvious in view of such teaching by Dauphin et al. Note that the hinged pages of Dauphin et al may include a rectangular central panel

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with pocket on either side which extend the width of the panel but less than the length as claimed. Note the zipper on the flap of Chisholm as well as the pockets in the recess Dauphin et al further teach the provision of stretch band located closer to the flap hinge than the pockets.

6. Claims 3 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 18 above, and further in view of Hersh et al.

To have formed the recess with a gap to receive additional items would have been obvious in view of such teaching by Hersh et al.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 3 above, and further in view of DeNigris, Jr.

To have merely place a kneeboard in the bag when it is to be carried while flying would have been obvious in view of DeNigris, Jr.

8. Claims 6, 7 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 27 above, and further in view of Storti.

To have formed the central member as a rigid member supporting pockets on each side would have been obvious in view of Storti teaching such construction for pockets secured to a binder.

9. Claims 8, 21, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 6 and 20 above, and further in view of Callinicos.

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To have stored a sectional aeronautical chart in the pocket for protection would have been obvious in view of Callinicos recognizing the need for protecting such charts for use.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 21 above, and further in view of Woodhouse.

To have placed the chart in the pocket such that the top portion extends out of the pocket would have been obvious in view of the disclosure of Woodhouse at 3.

11. Claims 9-12, 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Frost et al, Berretta and Wilstein et al show various knee boards for pilots. Seiffarth shows a pilots bag. Johnston, Fitzsimmons, Shtipelman et al and Tunnell, IV show various map or chart holders. Goldstein, Perlin, Radovich, Sherman, Wien and Cohun show various binder arrangements. Shaw, Zolkind, and McLinn show other flap arrangements. Levine et al, Robertson, Oswalt et al and Thompson show other bags with removable pockets.

13. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

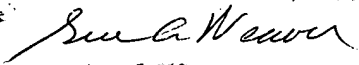
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is 571 272-4548. The examiner can normally be reached on Tuesday-Friday.

— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW


Susan A. Weaver
Primary Examiner